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15 Attorneys for Plaintiff
16 UNITED STATES OF AMERICA

17 UNITED STATES DISTRICT COURT

18 FOR THE CENTRAL DISTRICT OF CALIFORNIA

19 UNITED STATES OF AMERICA,

20 Plaintiff,

21 v.

22 JUAN ALONSO HERNANDEZ ENRIQUE,

23 Defendant.

24 No. 5:25-cr-00037-SSS-2

25 GOVERNMENT'S SENTENCING POSITION
FOR DEFENDANT JUAN ALONSO
HERNANDEZ ENRIQUE

26 Sentencing Date: 4/18/2025
27 Sentencing Time: 10:00 a.m.
28 Location: Courtroom of the
Hon. Sunshine S.
Sykes

29
30 Plaintiff United States of America, by and through its counsel
31 of record, the United States Attorney for the Central District of
32 California and Assistant United States Attorney Alix R. Sandman,
33 hereby files its sentencing position for defendant Juan Alonso
34 Hernandez Enrique.

35 The government's position regarding sentencing is based upon
36 the attached memorandum of points and authorities and exhibits, the
37 files and records in this case, and any other evidence or argument

1 that the Court may wish to consider at the time of sentencing. As
2 of the date of this filing, the modified Presentence Report has not
3 been made available to the parties. The government respectfully
4 requests the opportunity to supplement its position based on the
5 modified PSR or respond to defendant as may become necessary.

6 Dated: April 4, 2025

Respectfully submitted,

7 BILAL A. ESSAYLI
United States Attorney

8 LINDSEY GREER DOTSON
9 Assistant United States Attorney
Chief, Criminal Division

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11 */s/ Alix R. Sandman*
12 ALIX R. SANDMAN
Assistant United States Attorney

13 Attorneys for Plaintiff
14 UNITED STATES OF AMERICA

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 On March 28, 2025, defendant Juan Alonso Hernandez Enrique
4 pleaded guilty to count four of the indictment in this case, which
5 charged him with a violation of 8 U.S.C. § 1326(a), Illegal Alien
6 Found in the United States Following Deportation.

7 Pursuant to the terms of the plea agreement filed in this case,
8 the parties have stipulated to a total offense level of 2 based on
9 the following calculation: a base offense level of 8 pursuant to
10 U.S.S.G. § 2L1.2(a), minus 2 levels for acceptance of responsibility
11 under U.S.S.G. § 3E1.1(a), and minus 4 levels pursuant to a downward
12 departure for early disposition under U.S.S.G. § 5K3.1.

13 The government currently estimates that defendant's criminal
14 history places him in criminal history category I. Based on
15 defendant's estimated criminal history and total offense level of 2,
16 the resulting guidelines are 0 to 6 months' imprisonment.¹
17 Consistent with the government's agreement to recommend a mid-range
18 sentence in the plea agreement, the government accordingly
19 recommends that the Court impose the following sentence: (1) a 3-
20 month term of imprisonment; (2) a one-year period of supervised
21 release; and (3) a \$100 special assessment.

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¹ The United States Probation and Pretrial Services Office
25 ("USPPSO") has not disclosed a modified Presentence Report ("PSR")
26 with the defendant's criminal history calculation. The government
27 reserves the right to adjust its recommendation should the USPPSO
28 determine that defendant is in a different criminal history category
than the government currently anticipates. The government also
reserves the right to supplement its position based on any
information included in the forthcoming modified PSR.

1 **II. FACTUAL BACKGROUND**

2 The parties agreed to the following factual basis in support of
 3 the plea:

4 Defendant, a citizen of Mexico, was at all times relevant to
 5 this plea agreement an alien, that is, not a natural-born or
 6 naturalized citizen, or national, of the United States. Defendant
 7 was lawfully deported or removed from the United States on or about
 8 November 28, 2022 and December 25, 2022. Subsequent to defendant's
 9 most recent deportation or removal, defendant knowingly and
 10 voluntarily re-entered and thereafter remained in the United States.
 11 Defendant did so without the consent of the Attorney General or his
 12 designated successor, the Secretary of the Department of Homeland
 13 Security, or of any authorized representative of either the Attorney
 14 General or that Department, to reapply for admission or to otherwise
 15 re-enter and remain in the United States. After defendant re-
 16 entered and remained in the United States, on or about January 28,
 17 2025, defendant was found in San Bernardino County, within the
 18 Central District of California. Defendant was found by law
 19 enforcement after he had physically crossed the border of the United
 20 States.

21 **III. VICTIM IMPACT STATEMENT**

22 The government is also filing an impact statement from a victim
 23 BNSF Railway² in this case, for the Court's review. See Exhibit A.

24 ² As part of the plea agreement, the government agreed to
 25 dismiss count one (possession of goods stolen from interstate
 26 shipment, in violation of 18 U.S.C. § 659) and count two (removing
 27 goods from customs custody, in violation of 18 U.S.C. § 549) of the
 28 indictment, related to the theft of goods from a BNSF train. See 18
 U.S.C. § 3771(e)(2) (For purposes of the right to be reasonably
 heard under the Crime Victims' Rights Act, a victim is "a person
 directly and proximately harmed as a result of the commission of a
 Federal offense."); 1 U.S.C. § 1 ("person" includes "corporations");
 18 U.S.C. § 3661 ("No limitation shall be placed on the information

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2 **IV. ARGUMENT**

3 **A. GOVERNMENT'S SENTENCING RECOMMENDATION**

4 Based on a total offense level of 2 and, assuming a criminal
5 history category of I, the resulting advisory range is 0 to 6
6 months' imprisonment. The government respectfully recommends that
7 the Court impose a mid-range sentence of 3 months' imprisonment,
8 followed by a one-year period of supervised release, and a special
9 assessment of \$100. This sentence is sufficient, but not greater
10 than necessary, to achieve the goals of sentencing set forth in 18
11 U.S.C. § 3553(a).

12 The recommended sentence reflects the seriousness of
13 defendant's crime. Defendant illegally reentered the United States
14 repeatedly after having been deported or removed. Defendant's
15 repeated returns to the United States following deportation reflect
16 a lack of respect for the law and support the government's request
17 for mid-range Guidelines sentence. The recommended sentence of 3
18 months' imprisonment would also serve to promote respect for
19 immigration and criminal laws, deter defendant and others from
20 illegally re-entering the United States, and protect the public from
21 future crimes by this defendant.

22 These concerns, however, must be balanced against the
23 mitigating factors in this case, particularly defendant's early
24 acceptance of responsibility and acknowledgment of guilt. This

25 concerning the background, character, and conduct of a person
26 convicted of an offense which a court of the United States may
27 receive and consider for the purpose of imposing an appropriate
28 sentence."). To be clear, the government stands by its
recommendation that a mid-range sentence is sufficient, but not
greater than necessary, to achieve the goals of sentencing set forth
in 18 U.S.C. § 3553(a).

1 results in a benefit to the government and the judicial system by
2 promoting finality and reducing the resources that must be devoted
3 to this case, while also diminishing, to some extent, the likelihood
4 of recidivism. For these reasons, the government has agreed to
5 recommend an early disposition departure and a sentence at the mid-
6 range of the advisory Guidelines range, followed by a one-year term
7 of supervised release.

8 The Sentencing Guidelines advise that sentencing courts
9 ordinarily should not impose a term of supervised release for aliens
10 who are likely to be deported after a period of imprisonment. See
11 U.S.S.G. § 5D1.1(c). The commentary provides that “[t]he court
12 should, however, consider imposing a term of supervised release on
13 such a defendant if the court determines it would provide an added
14 measure of deterrence and protection based on the facts and
15 circumstances of a particular case.” U.S.S.G. § 5D1.1, cmt. n.5.
16 In this case, defendant will likely be deported following his term
17 of imprisonment. However, for the following reasons, the government
18 urges the Court to impose a one-year term of supervised release, as
19 the parties stipulated in the plea agreement.

20 District courts have wide latitude in imposing conditions of
21 supervised release. United States v. Blinkinsop, 606 F.3d 1110,
22 1118 (9th Cir. 2010); United States v. Weber, 451 F.3d 552, 557 (9th
23 Cir. 2006). The Sentencing Guidelines, tracking the language of 18
24 U.S.C. Section 3553(a) concerning imposition of sentence, recognize
25 this broad discretion:

26 The [district] court may impose other conditions of
27 supervised release to the extent that such conditions are
28 (1) reasonably related to (A) the nature and circumstances

1 of the offense and the history and characteristics of the
2 defendant; (B) the need for the sentence imposed to afford
3 adequate deterrence to criminal conduct; (C) the need to
4 protect the public from further crimes of the defendant;
5 (D) the need to provide the defendant with needed
6 educational or vocational training, medical care, or other
7 correctional treatment in the most effective manner; and
8 (2) involve no greater deprivation of liberty than is
9 reasonably necessary for the purposes set forth above and
10 are consistent with any pertinent policy statements issued
11 by the Sentencing Commission.

12 U.S.S.G. § 5D1.3(b).

13 In this case, a one-year term of supervised release is
14 specified in the binding plea agreement, and the parties' bargain
15 should be honored. (Plea Agreement, ¶ 14). The imposition of
16 supervised release would provide an "added measure of deterrence and
17 protection," that is warranted under the facts of this case. See
18 U.S.S.G. § 5D1.1, cmt. n.5. Given defendant's prior deportations,
19 the imposition of a one-year supervised release term would provide a
20 needed additional incentive for defendant to refrain from unlawfully
21 returning to the United States. If defendant were unlawfully to re-
22 enter, the terms of defendant's supervised release could be deemed
23 violated. There would be no greater deprivation of liberty than
24 necessary and no undue expenditure of USPPSO resources because there
25 would be no reporting requirement for defendant unless he actually
26 returned to the United States.

27 The imposition of supervised release here would be reasonably
28 related to the goal of deterrence, protection of the public, and

1 involve no greater deprivation of liberty than is reasonably
2 necessary for the purposes of supervised release. Since the
3 Sentencing Guidelines are advisory only, and in light of the broad
4 discretion afforded the Court in this area, the government
5 recommends that the Court find, consistent with the commentary to
6 Section 5D1.1, that supervised release is appropriate under the
7 facts and circumstances of this case. See United States v. Apodaca,
8 641 F.3d 1077, 1081 (9th Cir. 2011) (Sentencing Guidelines for
9 supervised release are advisory only); Blinkinsop, 606 F.3d at 1118;
10 Weber, 451 F.3d at 557. Accordingly, in addition to a three month
11 term of imprisonment, this Court should impose a one-year term of
12 supervised release.

13 **V. CONCLUSION**

14 For the reasons stated above, the government respectfully
15 requests that the Court impose a sentence of 3 months' imprisonment,
16 followed by a one-year period of supervised release, and a mandatory
17 special assessment of \$100.

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